

EXHIBIT 20

RICHARD ROMAN

November 29, 2016

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY
3 CIVIL ACTION NO. 13-cv07871-FLW-TJB
4

5 KIMBERLEY COLE, ALAN COLE,
6 JAMES MONICA, LINDA BOYD,
7 MICHAEL McMAHON, RAY SMINKEY,
8 JAMES MEDDERS, JUDY MEDDERS,
9 ROBERT PEPERNO, SARAH PEPERNO
10 AND KELLY McCOY, on behalf of
11 themselves and all others
12 similarly situated,

DEPOSITION UPON
ORAL EXAMINATION
OF
RICHARD ROMAN

13 Plaintiffs

14 vs

15 NIBCO, INC.,

16 Defendant
17 -----
18

19 T R A N S C R I P T of the
20 stenographic notes of SUSAN GIOFFRE, a Notary
21 Public and Certified Court Reporter of the State
22 of New Jersey, License No. XI001220, taken at the
23 DOUBLE TREE SOMERSET HOTEL, 200 Atrium Drive,
24 Somerset, New Jersey, on Tuesday, November 29,
25 2016 commencing at 1:10 p.m.

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1 A P P E A R A N C E S:

2

3

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1 R I C H A R D R O M A N,

2 3 Wildwood Drive, Basking Ridge, New
3 Jersey, called as a witness, having
4 been first duly sworn according to
5 law, testifies as follows:
6

7 DIRECT EXAMINATION BY MS. STEPHENS:
8

9 Q. Can you state your name for the
10 record, please?

11 A. Richard Roman.

12 Q. Mr. Roman, where do you live?

13 A. 3 Wildwood Drive, Basking Ridge, New
14 Jersey.

15 Q. Do you also go by "Rick"?

16 A. Yes.

17 (Defendant's Amended Notice of
18 Deposition of Richard Roman, Roman
19 Plumbing and Heating is received and marked
20 as Exhibit Roman-1 for Identification.)

21 Q. Rick, I'm going to hand you what's
22 been marked Roman Exhibit 1, but I'm not sure if
23 you've seen this today or previously, but it's an
24 Amended Notice of Deposition of Richard Roman.

25 Do you see that at the top?

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1 A. Yup.

2 Q. We've got it dated for today at one
3 p.m.?

4 A. Okay.

5 Q. And you also received a subpoena, did
6 you not, to appear here today?

7 A. Yes, I did.

8 Q. And did that subpoena also request
9 certain documents to be produced?

10 A. Yes.

11 Q. And are you producing some documents
12 to us today in relation to that subpoena?

13 A. I believe we do have some.

14 Q. Okay. I'm going to give you a chance
15 -- you're also represented here today by an
16 attorney. Is that correct?

17 A. Yes, that's correct.

18 Q. And what's his name?

19 MR. BAURKOT: My name is Daniel
20 Baurkot. My address is 28 Flintlock Court,
21 Basking Ridge, New Jersey 07920.

22 I'm here today to represent Mr. Roman
23 in this deposition.

24 I was provided a copy of this subpoena
25 to testify at a deposition in a civil action

1 along with the Defendants' Amended Notice of
2 Deposition of Richard Roman, Roman Plumbing
3 & Heating.

4 The subpoena to testify has attached
5 to it certain exhibits, one of which requests
6 production of various documents.

7 I've had an opportunity to review the
8 request. There are a number of documents
9 that are requested here that my client, as he
10 will testify, has no documents that are
11 responsive to the particular requests.

12 I have certain other documents that
13 may be responsive.

14 In addition, I've got documents that
15 relate to a proceeding that was instituted by
16 James Monica, a lawsuit that was instituted
17 in Somerset County Law Division, Docket No.
18 SOM-L-841-13.

19 That proceeding was instituted by
20 Mr. Monica, and my client appeared in that
21 action. The action was ultimately resolved
22 by way of a settlement.

23 I have documents that relate to that
24 proceeding and the settlement.

25 While I am not sure that the document

1 request specifically requests those
2 particular documents, I've related to counsel
3 that we have those documents, and to avoid
4 having to come back at another time, I'm
5 going to provide those documents because I
6 believe that they are discoverable.

7 As I mentioned to counsel before we
8 went on the record, as far as I can tell,
9 there is no confidentiality clause in any of
10 the settlement documents that were entered
11 into by my client and by Mr. Monica that
12 would prohibit us from producing these
13 documents.

14 So, having been properly served with a
15 subpoena and having been requested to produce
16 these documents, I'm going to produce these
17 documents on behalf of my client, and
18 hopefully, that will be sufficient -- a
19 sufficient response to this discovery request
20 and there will be no need for us to come back
21 another time.

22 MS. STEPHENS: Thank you, Dan.

23 MR. BAURKOT: Okay.

24

25

1 BY MS. STEPHENS:

2

3 Q. Mr. Roman, have you ever been deposed
4 before?

5 A. Yes.

6 Q. And how many times?

7 A. Once.

8 Q. What was that deposition related to,
9 generally speaking?

10 A. I saw a car accident.

11 Q. So you were a witness to a car
12 accident?

13 A. Yes.

14 Q. How long ago was that deposition?

15 A. It had to be 10, 12 years ago, if not
16 longer.

17 Q. Okay. So since it's been a while
18 since you've done this, it's really important
19 that, first of all, you speak up and speak
20 clearly so that the court reporter can understand
21 what you're saying. We'll try to speak one at a
22 time, okay?

23 A. Okay.

24 Q. So I will try not to interrupt your
25 answers if you try not to interrupt my questions,

1 and that way the record is clear when we're all
2 said and done, okay?

3 Does that make sense?

4 A. Yes, it does.

5 Q. The other important thing is that you
6 give me audible answers today.

7 So you can't just nod your head, you
8 can't just go "um-hum" because that is difficult
9 for the court reporter to take down or to
10 interpret, and we want to have a clear record.

11 So, for instance, I might follow up
12 with a question or an answer that you say and say
13 "Is that a yes," and I'm just trying to make the
14 record clear, okay?

15 A. Okay.

16 Q. Also, if you don't understand a
17 question that I'm asking you, please tell me that
18 and I'll try to ask it in a way that you
19 understand, okay?

20 A. Yes.

21 Q. And I'm going to assume if I ask you a
22 question and you answer it, that you understood
23 my question. Is that fair?

24 A. Yes, it is.

25 Q. Also, if you need to take a break at

1 any time today, please speak up, but I'm going to
2 ask that you don't ask to take a break while I
3 have asked you a question and you still haven't
4 answered, okay?

5 A. Yes.

6 Q. What did you do to prepare for the
7 deposition today?

8 A. I did -- I just asked Dan to get the
9 paperwork that we had, and that's it.

10 Q. Did you review any of those documents
11 before you came today?

12 A. No, I did not.

13 Q. And what's your general understanding
14 of the documents that your counsel brought with
15 you today -- brought with him today?

16 A. I just glanced through them. Some of
17 them is the proposal that I sent Mr. Monica to do
18 his -- to do his house, and I guess the rest of
19 it probably has to do pertaining to the lawsuit
20 that he filed against me.

21 Q. And by "he" you mean James Monica?

22 A. Yes, I do.

23 Q. And just so you understand, that
24 Exhibit 1 I gave to you, do you see the top part?

25 We call that a caption.

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1 And there are a bunch of names in the
2 upper left.

3 A. Right.

4 Q. Do you see James Monica listed there?

5 A. Yes, I do.

6 Q. And he's -- just so you understand,
7 I'm an attorney and I represent NIBCO, and NIBCO
8 has been sued by James Monica and some other
9 people, okay?

10 A. Yes.

11 Q. So I had a chance to take Mr. Monica's
12 deposition this morning.

13 And what is your connection to James
14 Monica?

15 A. He was a client.

16 Q. And specifically, what kind of work
17 did you do -- he was a client of Roman Plumbing?

18 A. Plumbing, yes.

19 Q. And is Roman Plumbing -- do you own
20 Roman Plumbing?

21 A. Yes, I do.

22 Q. Is it incorporated?

23 A. Yes, it's an S corporation.

24 Q. Are you the sole owner?

25 A. Yes, I am.

1 Q. And do you have any employees?

2 A. Yes, I do.

3 Q. And how many employees?

4 A. At this moment, I have three.

5 Q. And are you -- what's the general
6 nature of the business of Roman Plumbing?

7 A. To install plumbing and heating and
8 repair.

9 Q. And are you a licensed plumber?

10 A. Yes, in the State of New Jersey.

11 Q. Are you a licensed master plumber?
12 Is that a different thing?

13 A. No, that's the same.

14 Q. And what's -- and then what's a
15 journeyman's book?

16 A. To tell you the truth, I don't --
17 that's something to do with the unions. I really
18 don't know what that is.

19 I guess someone who is going for his.
20 I guess it would be apprentice, and after so many
21 years you become a journeyman, and then if you go
22 for your license, then a master plumber.

23 Q. And how long have you been a plumber?

24 A. Since I was 17, so I'm 54 now, so
25 that's 37 years.

1 Q. And so you started as an apprentice
2 plumber when you were 17?

3 A. That's correct.

4 Q. Now, how long have you owned Roman
5 Plumbing?

6 A. Since 1990.

7 Q. And what did you do before you ran
8 Roman Plumbing?

9 A. I worked for other plumbing companies.

10 Q. Do you have to do any sort of like
11 education to maintain your license?

12 A. Every two years we have to do five
13 hours of continuing education.

14 Q. And you just go to courses that are
15 offered by different associations, or what?

16 A. No. I think they have to be qualified
17 by the state, the teacher, and then -- I mean
18 certified by the state, and then you just -- you
19 get a whole slew in the mail and you just pick
20 one and you put your five hours in and they give
21 you a certificate, and that's all you need to
22 renew your license.

23 Q. Do you recall approximately when you
24 worked for James Monica?

25 A. I think it had to be 2009, 2010.

1 Q. I'm going to represent to you that he
2 told us it was approximately 2010.

3 A. Well, I have the -- can I look at the
4 proposal right here?

5 Q. Absolutely.

6 A. So his proposal was sent to him
7 6/11/10, so that's when we started to negotiate
8 the project.

9 Q. Okay. And then at sometime thereafter
10 that was accepted and you started doing work for
11 him?

12 A. Right. I don't think the house was
13 built at that time, so I would say anywhere from
14 three to six months we started from then.

15 Q. How did you come into contact with
16 James Monica?

17 A. A mutual friend.

18 Q. What mutual friend?

19 A. An excavator of mine that recommended
20 me.

21 Q. V. A. Spatz?

22 A. Yes.

23 Q. Now, let's go ahead and mark what you
24 were looking at, go ahead and mark that as an
25 exhibit.

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1 MR. BAURKOT: I apologize. I only
2 made one copy of this document.

3 I didn't know Mr. Monica was going to
4 have counsel.

5 MS. STEPHENS: That's okay.

6 Q. We're going to mark this as Roman-2
7 because you brought it with you.

8 I believe we looked at a similar
9 document this morning.

10 (Roman Plumbing & Heating Proposal,
11 6/11/10, is received and marked as Exhibit
12 Roman-2 for Identification.)

13 Q. So I want you to look at Roman-2.

14 A. Okay.

15 Q. So Roman-2 is two pages?

16 A. Yes.

17 Q. And the total on the second page is
18 \$18,900?

19 A. That's correct.

20 Q. Now, is this your handwriting?

21 A. Yes, it is.

22 Q. And you said the date was June 11,
23 2010. Is that the date you talked -- did you go
24 out and talk to him that day or was that the date
25 you wrote all this up?

1 A. No, I probably met him before that. I
2 probably looked -- went and picked up a set of
3 plans and went back and estimated, you know, what
4 was involved in the job, and then gave this
5 estimate to him.

6 Q. And you said that at the time that you
7 gave this estimate there was no actual house, is
8 that correct, I think it was --

9 A. I don't -- no, I don't believe -- they
10 might have started the foundation, but I don't
11 believe so. I don't quite remember, but there
12 was no wood frame up. I think it was just an
13 empty lot.

14 Q. Now, on Roman-2, which you have in
15 front of you, I see -- and so you've got certain
16 information from him and you just kind of spec'd
17 out what you thought it would cost and you got to
18 the total. Is that right?

19 A. Well, I got his plans. I got a set of
20 his drawings.

21 Q. Okay. And you looked at those,
22 referenced those, and you came up with what you
23 thought what was involved and how much it would
24 cost?

25 A. What the actual plumbing was in the

1 house, and then I gave my material and labor
2 costs for it.

3 Q. Did you have a discussion with
4 Mr. Monica about where you would get the supplies
5 for the house that you were going to install?

6 A. The only thing -- I might have had a
7 discussion with him about the plumbing fixtures,
8 but not the actual pipe, you know, as we would
9 call the rough plumbing stuff, the pipe that's in
10 the walls and all the consumables, I guess they
11 call them, just the actual toilets, tubs.

12 Q. And where did you end up getting the
13 fixtures for the house?

14 A. Lawrence Kantor Supply.

15 Q. Is Lawrence Kantor a person or a --

16 A. It's a business.

17 Q. Is that like Kantor Plumbing Supply?

18 A. It's Lawrence Kantor Supply.

19 Q. And Mr. Monica told me that you might
20 have had a business relationship with them?

21 A. At that time I did.

22 Q. And so perhaps you could get discounts
23 there?

24 A. Yes, correct.

25 Q. And did you -- my understanding is you

1 sent Mr. Monica there to pick out the fixtures
2 himself?

3 A. That's correct.

4 Q. What about -- there's an entry on the
5 first page of this proposal. It says, "Water
6 heater with recirculating pump."

7 Do you see that?

8 A. Yes.

9 Q. Now, typically, houses will have a
10 water heater, but what about a recirculating
11 pump?

12 A. A recirculating pump is where you run
13 a line, the last piece of hot water pipe that you
14 run, you run a pipe back to the water heater and
15 you put a pump so when you open the faucet you'll
16 get instant hot water so you don't have to wait
17 ten minutes before the hot water comes out.

18 Q. Is that something that you recommended
19 or was that in the plans?

20 A. I don't -- most likely, it's not
21 recommended, but by code -- in the code, if you
22 run a hot water line over 100 feet it has to be
23 put in, but I don't know if we ran his hot water
24 over 100 feet, his pipe.

25 You know, in these big houses and

1 these long runs, there has to be a recirculating
2 line on the hot water so you don't waste water.

3 Q. Do you mean 100 feet total of pipe in
4 the house?

5 A. Yeah, um-hum.

6 Q. That's a "Yes"?

7 A. Yes.

8 Q. You don't recall why you put that on
9 there; it might have been because the plans
10 suggested it wasn't going to be over that or you
11 just thought it was a good idea?

12 A. Yeah, I just -- I just put it in
13 'cause most people complain, "Oh, it takes so
14 long to get my hot water," so I throw it in, you
15 know, I put it in the proposal.

16 Q. On the second page it indicates that
17 you're proposing to use PVC for the waste and
18 vent piping?

19 A. Correct.

20 Q. And why PVC for those two functions?

21 A. That's what we normally use for this,
22 and the only other material that would be used
23 would be cast iron, and that's more costly.

24 Q. And it says for the hot and cold water
25 it's to be PEX tubing. Do you see that?

1 A. Yes.

2 Q. And is that a suggestion that you had
3 or did you have a discussion with Mr. Monica
4 about that?

5 A. I don't know if I had a discussion,
6 but sometimes I do have discussions with clients
7 because the other material you would use would be
8 copper, and it's -- the material is more and the
9 installation is more when you use copper.

10 Q. If you had to estimate, how much more
11 is the copper material installation; is it double
12 the price?

13 A. Well, I go per fixture unit, so it's
14 like \$150 per fixture unit more.

15 Q. So each fixture that we've got listed
16 on the first page --

17 A. Right, it would be \$150 more.

18 Q. Now, what are the different -- other
19 than the cost between the PEX and the copper,
20 what are some other differences between the two
21 materials?

22 A. It's easy to work with the PEX. I
23 don't know what other difference there is.

24 Q. Is it easier -- you mean easier to
25 install?

1 A. Yeah, faster to install the PEX.

2 Q. Is that because with copper you have
3 to do soldering?

4 A. Yes. You have to clean it, you have
5 to -- it's harder to cut, it takes longer to cut.
6 I mean, not much longer. You know, everything
7 adds time to the installation.

8 Q. At the time you started working with
9 Mr. Monica in 2010, had you been working with PEX
10 for a while?

11 A. Yes.

12 Q. Do you recall when you started working
13 with PEX?

14 A. No, I do not.

15 Q. When you started working with PEX did
16 you do any sort of training to learn how to use
17 it or did you just start using it?

18 A. Just started using it.

19 Q. Do you know where you got the PEX
20 materials for the Monica house?

21 A. I do not. If I had to take a guess, I
22 would believe it would be General Plumbing Supply
23 because at that time that was my main supplier.

24 Q. Had you been getting your PEX supplies
25 there for a while at that time?

1 A. Yes.

2 Q. Did you have a discussion about -- now
3 on this it says the tubing is supposed to be PEX.
4 What about the fittings?

5 That's not listed here.

6 A. Yeah. Well, I didn't put it because
7 you need to use the fittings that go with the
8 pipe, so I didn't put that in.

9 You know, even if I put copper I
10 wouldn't put "copper fittings."

11 It's just -- I just thought it was a
12 given that if you're going to use PEX pipe you
13 got to use PEX fittings.

14 Q. Now, when you say "PEX fittings," do
15 you mean fittings made of PEX or what do you
16 mean?

17 A. At that time I don't believe that
18 there was -- they have poly fittings now, and I
19 don't think they were that popular at that time,
20 so they were brass fittings that I believe we
21 used.

22 Q. So there might have been poly fittings
23 available, but brass was kind of the go-to
24 fittings?

25 A. At the time, at the time.

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1 Q. Has that changed since then?

2 A. Yeah.

3 Q. In what way?

4 A. I use the poly fittings now.

5 Q. And why is that?

6 A. They're a little cheaper, and I don't
7 know, my guys like to use them.

8 Q. What brand of PEX tubing have you used
9 before?

10 A. I guess it's NIBCO. At one time I
11 used a little bit of Wirsbo. And there's one
12 other one I just can't remember right now that I
13 think I use a little bit of it now, but I don't
14 remember the name of it.

15 Q. Lochinvar?

16 A. No.

17 Q. Rehau?

18 A. No.

19 Q. Kitec?

20 A. Kitec?

21 Q. K-i-t-e-c.

22 A. Oh, way back then we used a lot of
23 Kitec, and there was an issue with that, too.

24 Q. What did you mean, an issue with that?

25 A. I don't know if it was the tubing or

1 the fittings that were bad with that. We stopped
2 using them.

3 Q. Where did you get the Kitec?

4 A. General Plumbing Supply. I know I
5 ordered there.

6 Q. Now, are you -- do you know back in
7 2010, would General Plumbing Supply have had
8 multiple PEX options or would they have just one
9 option?

10 A. I do not know.

11 Q. In your mind, was there a difference
12 between the brands at the time?

13 A. No.

14 Q. So you were just buying whatever was
15 available?

16 A. Right. And if it was -- you know, if
17 I went to General and I was closer to another
18 supply house, if whatever they had I would have
19 took, too. I didn't look for a specific brand.

20 Q. Along the same lines, did you have any
21 discussion with Mr. Monica about what brand you
22 were going to use?

23 A. No.

24 Q. And that would pertain to the fittings
25 and the tubings?

1 A. Correct.

2 Q. Did you have any discussion with
3 Mr. Monica about how you were going to fasten the
4 tubes to the fittings?

5 A. No.

6 Q. Are you familiar with the various ways
7 -- I'm sure you are -- with how you can fasten a
8 fitting to a tube?

9 A. Um-hum.

10 Q. "Yes"?

11 A. Yes.

12 Q. What's that? What are those different
13 ways?

14 A. There's a round ring. There's a cinch
15 ring that I believe that we used at his house.

16 Q. And they're clamps, you call them
17 clamps?

18 A. I call it a cinch ring. I don't know
19 if it's a clamp to you, but that's what it's
20 called when I order them. That's what I ask for.

21 And then I guess the Wirsbo or
22 Lochinvar, what you said, is a different
23 procedure altogether. You don't use any clamps.
24 You expand it and then it has a memory and it
25 goes back to itself. I think you can do it three

1 times.

2 Q. And how did you learn to install these
3 various products?

4 A. I just did it.

5 Q. Are you familiar with the tools that
6 you used to install the NIBCO products, PEX
7 products specifically?

8 A. Um-hum.

9 MR. BAURKOT: "Yes"?

10 A. Oh, yes.

11 Q. What tools are those?

12 A. It's a cutter, a little plastic cutter
13 that you would use to cut the pipe, and it's a
14 tool that squeezes the clamp, the cinch ring.

15 Q. Is there a specific, like, clamp or
16 cinch ring tool that's associated with certain
17 brands or can you use those across the board?

18 A. I think you could use it across the
19 board.

20 Q. Are you still using PEX today?

21 A. Yes, I am.

22 Q. What brand are you using right now the
23 majority of the time?

24 A. I really -- I think some of it's
25 NIBCO. I don't really know what brand. Like I

1 said, I deal with Atlantic Plumbing Supply now.

2 Whatever they have, I purchase.

3 Q. That was going to be my next question.

4 Your main supplier right now is

5 Atlantic Plumbing Supply?

6 A. That's correct.

7 Q. Why did you switch away from General?

8 A. We had some issues. And the owner of
9 Atlantic I met on a couple fishing trips and I
10 became friendly with him.

11 Q. Did you have issues with General
12 Plumbing Supply?

13 A. Yes.

14 Q. What were those issues?

15 A. A little financial issues. We had a
16 little disagreement.

17 Q. Somebody owed somebody money?

18 A. Yes.

19 Q. How much of the installation at the
20 Monica house did you do yourself?

21 A. Not much. I don't know what
22 percentage, but not much.

23 Q. Who did most of the work?

24 A. I don't know which one of my guys did
25 that at the time. I don't remember.

1 Q. So at the time back in 2010, you
2 believe you had a couple employees who did the
3 work?

4 A. Um-hum.

5 Q. "Yes"?

6 A. Yes.

7 Q. And were they master plumbers or --

8 A. No, they were not.

9 Q. Were they apprentices?

10 A. No, they were not.

11 Q. Were they licensed?

12 A. No, they were not.

13 Q. Do you know how long either of these
14 employees had been working for you at that time?

15 A. Well, one is with me 17 years now, so
16 he's got to be working 9, 10 years at the time.

17 Q. What's his name?

18 A. Sol Benitas.

19 Q. Sol?

20 A. Yes.

21 Q. What about the other person?

22 A. He's with me 13 or 14 years, so...

23 Q. What's his name?

24 A. Arnardo A-l-d-e-r-a-t-e.

25 Q. So they were working with you at the

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1 time of the Monica installation and they're still
2 working for you today. Is that correct?

3 A. That's correct.

4 Q. And did they learn how to install PEX
5 from you or did they just kind of learn on the
6 job?

7 A. I guess on the job.

8 Q. Now, you said you didn't do much of
9 the installation yourself at the Monica house.

10 What was your involvement in that job?

11 A. I would get the material, I would go
12 and check on the men, see what they did, what
13 progress they made.

14 Q. Were you there during any of the
15 inspections of the plumbing?

16 A. Yes, I was.

17 Q. Were you there during all of the
18 inspections?

19 A. I don't recall.

20 Q. Do you recall which inspections you
21 were there for?

22 Let me back up.

23 My understanding is the inspection
24 process involved several steps. Is that --

25 A. Yes.

1 Q. -- your understanding?

2 A. Well, two steps.

3 Q. Okay. What are those two steps?

4 A. Well, in that particular job we
5 probably had three steps.

6 We have a rough inspection. That's
7 inspecting all the plumbing until the walls are
8 to be closed up.

9 And then I believe on that job we had
10 the main sewer line and water line from the curb
11 into the house inspected, so there would have
12 been three inspections on the job, and then the
13 final inspection.

14 Q. And what does the roughing inspection
15 entail?

16 A. That's when all the gas, water, and
17 waste lines are under pressure and the inspector
18 checks to make sure there's no leaks and that we
19 installed -- that all the vents are correct and
20 the proper size piping has been used and whatever
21 else he looks for.

22 Q. Are you aware of any issues that arose
23 during the inspections at the Monica house?

24 A. The outside inspection we had a
25 problem where the water and sewer line was

1 supposed to be 12 inches apart and they were nine
2 inches apart, so he made us move them apart 3
3 inches.

4 And I don't recall if there was -- I
5 think on the -- I don't know about the rough
6 inspection, but I think on the final inspection
7 he made us install a pressure reducing valve and
8 some other stuff, but I don't recall exactly what
9 it was.

10 Q. What's a pressure reducing valve?

11 A. That cuts the pressure from the city
12 main into the house.

13 Q. So it kind of helps regulate the
14 pressure of the water in the house?

15 A. Yes.

16 Q. Why would an inspector, do you think,
17 ask you to install one of those?

18 A. I don't know why he asked -- that town
19 requires it on every house, but we don't -- at
20 that time they did, but we only put it when the
21 pressure is too high.

22 It shouldn't be more than, I feel,
23 about 80 pounds, so if it's over 80 pounds we put
24 a pressure reducing valve in.

25 Q. Why would you want to regulate the

1 pressure?

2 A. Because, actually, some of the causes
3 of it, toilets run, because the valves of the
4 toilets won't shut off; sometimes it will make
5 the faucets drip, and sometimes, if there's too
6 much pressure, the pipe, I think, is only rated
7 for 200 PSI, so if it's over that it could blow
8 the pipe apart.

9 But, mostly you don't get that kind of
10 pressure, city pressure, but that's why you would
11 want to regulate it.

12 Q. Were you aware that after the
13 installation of the plumbing at the Monica house
14 they had some leaks?

15 A. Yes.

16 Q. How did you become aware of those
17 leaks?

18 A. I'm not -- I'm not positive, but I
19 believe we were called back on one in the mud
20 room. I think I have a recollection of that.

21 But then the other two -- I think
22 there was two other leaks -- through the lawsuit.

23 Q. Okay. Well, let's talk about that
24 specifically.

25 Eventually, Mr. Monica ended up filing

1 a lawsuit against Roman Plumbing and you
2 personally. Is that correct?

3 A. Yes.

4 Q. What was your understanding that he
5 was complaining about in that lawsuit?

6 A. There was a whole slew of things.

7 Q. All right. Well, let's start at the
8 beginning.

9 A. I don't remember the whole -- I don't
10 remember piece by piece.

11 I think the leaks, and then I know he
12 complained about the body sprays were not at the
13 right height for him, and there was something
14 about a radon pipe, and I don't recall the rest.
15 I mean, it's been a number of years now.

16 Q. So as part of the lawsuit against you,
17 your understanding was that he was complaining
18 about leaks in the plumbing system?

19 A. That was part of it, yes.

20 Q. Do you recall specifically what he was
21 complaining that you did wrong?

22 And by "you" I mean Roman Plumbing in
23 general.

24 A. I don't know if he said that we
25 installed it wrong or -- I don't remember that,

1 what he said. I don't know.

2 That's how I came to find out after he
3 -- Dan told me that he was going to join a class
4 action suit at that time because there was
5 something wrong with the fittings or something
6 wrong with the pipe, but that's the first time I
7 learned of there being a problem with the pipe.

8 Q. Did he ever complain to you about the
9 fact that you were the one that picked out the
10 materials that he was going to use?

11 A. I don't think so. I don't remember.

12 Q. And you say he never complained about
13 how you installed things, is that correct, or any
14 of the plumbing?

15 A. Not when we were doing the job. I
16 don't know if he did it after with the lawsuit,
17 but at the time of the job I don't remember him
18 complaining.

19 Q. So as part of a lawsuit did he
20 complain that you had not installed some of the
21 materials correctly?

22 A. Can I look at what the paper -- I
23 don't know.

24 Q. I haven't looked at those yet.

25 A. I don't know. I don't know.

1 Q. I'll have an opportunity to look at
2 those in a little bit. I want to keep asking
3 some questions.

4 A. Okay.

5 Q. Did you install a radon pipe in his
6 house?

7 A. Yes.

8 Q. And he, at least, told me this morning
9 that you didn't do that. Is that correct?

10 A. Yeah. He complained about it, that it
11 was outside the wall or something.

12 Q. He didn't like how you installed it?

13 A. Yeah, right.

14 Q. So after Mr. Monica sued you, my
15 understanding is that an insurance company got
16 involved?

17 A. Correct.

18 Q. Was that your insurance company?

19 A. Yes.

20 Q. What insurance company is that?

21 A. I don't know at the time.

22 Q. But as part of your business --

23 A. My liability insurance.

24 Q. Hold on, let me --

25 A. I'm sorry.

1 Q. That's okay. This is difficult and
2 it's what we're not used to doing.

3 As normal people we just like to
4 converse, so this is very awkward, but I just
5 want to make sure that you're answering the
6 question that I'm going to ask rather than what
7 you think I'm going to ask.

8 MR. BAURKOT: We need to have a clear
9 record. It happens a lot. People speak
10 over each other.

11 MS. STEPHENS: Absolutely.

12 Q. So at the time your business carried
13 liability insurance and that's who you submitted
14 the claim to?

15 A. Correct.

16 Q. And then they became involved and
17 ultimately helped you resolve the dispute.

18 Is that correct?

19 A. Correct.

20 Q. And my understanding is that it was
21 settled for approximately what, \$12,750?

22 A. Yes.

23 Q. And you supplied some of that money,
24 correct?

25 A. 2,750.

1 Q. And the other 10,000 came from the
2 insurance company?

3 A. Correct.

4 Q. As part of the lawsuit did you have to
5 produce any documents or information to
6 Mr. Monica?

7 A. I don't know.

8 Q. You don't know. So whatever Dan has
9 is what you were aware of?

10 A. Yeah, whatever Dan told me to give
11 him, I gave him.

12 Q. So we'll come back to that.
13 So you think you might have been
14 called back to address a leak in the mud room at
15 the Monica house. Is --

16 A. Correct.

17 Q. -- that correct?

18 But you were not called in to work on
19 any other leaks. Is that correct?

20 A. Correct.

21 Q. Did you hear that he was having other
22 leaks in his home?

23 A. Not until I got the lawsuit.

24 Q. Did you ever have a discussion with
25 Mr. Monica where you told him to contact NIBCO

1 about the problems he was having?

2 A. I might have. I don't know.

3 Q. Do you know what the NIBCO PEX
4 warranty is?

5 A. No, I do not.

6 Q. Have you ever submitted a claim to
7 NIBCO?

8 A. No, I have not.

9 Q. Have you had -- you've been doing this
10 a long time.

11 But I'm just talking about houses
12 where you've installed PEX, okay, for the
13 purposes of this question.

14 A. Okay.

15 Q. Have you ever had customers complain
16 to you about leaks in their PEX plumbing systems?

17 A. Yes.

18 Q. How many customers complained?

19 A. A couple when we used that Kitec pipe.

20 Q. You were using that before you started
21 using NIBCO?

22 A. Yeah. And we stopped when we found
23 out there was a lot of problems with it.

24 Q. How did you find out about the
25 problems with it, as you described?

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1 A. I don't know if there was -- the guy
2 was buying it -- the guy who was the rep or the
3 General -- I was buying it from General, too.

4 Actually, I lost a lot of money on
5 that because I bought a whole bunch of that pipe
6 and I had to throw it in the garbage.

7 Q. So someone told you there was some
8 issues with the pipe specifically in --

9 A. I don't know if it was the pipe or
10 fittings, but there was a problem.

11 MR. BAURKOT: Let her finish.

12 THE WITNESS: Oh, I'm sorry.

13 Q. So someone told you there was an issue
14 with the Kitec products; you're not sure if it's
15 the tubing or the fittings, correct?

16 A. Correct.

17 Q. And as a result of that, you scrapped
18 some of the supply that you had on hand?

19 A. Yes.

20 Q. As a result of those customers who
21 complained to you, did they ask you to come out
22 and help fix some of those issues?

23 A. Yes.

24 Q. And did you do that?

25 A. Yes.

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1 Q. Was that a handful of people?

2 A. I would say a handful.

3 Q. Is that your normal business practice
4 if someone whose work -- whose house you
5 installed the plumbing at complains about a leak,
6 you'll go out there and try to fix it for them?

7 A. Yes, I stand behind my work.

8 Q. Do you know whether you charged
9 Mr. Roman to fix the leak in the mud room in his
10 house?

11 A. You mean Mr. Monica?

12 Q. I'm sorry, yes. I'll say it again.
13 Do you know whether you charged
14 Mr. Monica to fix the leak in his mud room?

15 A. No, I did not.

16 Q. Do you think you personally went out
17 and fixed that leak or one of your employees?

18 A. I think I was there with one of my
19 employees.

20 Q. Do you recall what kind of -- was it
21 an issue with the fitting or with the tube or --

22 A. I don't recall.

23 Q. You used -- for some reason you
24 remember it was in the mud room?

25 A. Yes.

1 Q. It sticks in your mind?

2 A. Yes, 'cause as soon as you walked in
3 the back door there was the sink.

4 Q. Do you recall what work was done to
5 repair that leak?

6 A. No.

7 Q. If Mr. Monica had called you to come
8 repair the other leaks he had in his home, would
9 you have gone out and fixed those?

10 A. I don't know.

11 Q. At some point he ended up suing you,
12 right?

13 A. Well, he owed me money at that point.

14 Q. How much money did he owe you?

15 A. I'm not quite sure. I think it was
16 between \$1,300 and \$1,600 for plumbing fixtures
17 that I purchased.

18 Q. So he and I talked about that this
19 morning.

20 Again, at Kantor Plumbing Supply, my
21 understanding is that the Monicas went out and
22 picked out the fixtures that they would purchase
23 under your account. Is that correct?

24 A. Correct.

25 Q. So you're saying he owed you some

1 money for making that purchase and he was
2 refusing to pay for it?

3 A. Correct.

4 Q. Was that related to the other issues
5 he was complaining about?

6 A. I don't know what his reason was why
7 he didn't want to pay me.

8 Q. And that particular issue arose before
9 he filed a lawsuit against you?

10 A. Yes, 'cause he filed the lawsuit a
11 year or two later, and that was at the end of the
12 job.

13 Q. So when you left things with him you
14 believed he owed you money for the fixtures?

15 A. Correct.

16 Q. And he never paid you that?

17 A. Correct.

18 Q. And then a year or so later he sued
19 you and you ended up having to pay \$12,750.

20 Is that correct?

21 A. I didn't pay all of that.

22 Q. It was settled for that?

23 A. Right, um-hum.

24 Q. And the original -- at least in the
25 proposal, the total amount was \$18,900?

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1 A. Correct.

2 Q. Have you ever been to the NIBCO
3 website?

4 A. No.

5 Q. Have you ever seen a NIBCO
6 installation manual for PEX?

7 A. No.

8 Q. Have you ever installed NIBCO PEX
9 products using the rings instead of the cinch?

10 A. No.

11 Q. So you've always used the cinch
12 clamps?

13 A. Correct.

14 Q. Is that a personal preference or why
15 is that?

16 A. Personal preference.

17 Q. Have you done quite a bit of work in
18 Warren, New Jersey?

19 A. Somewhat.

20 Q. Does the water there have a reputation
21 for being a hard water?

22 A. I don't know.

23 Q. When you're considering a type of
24 material for plumbing in a house, do you consider
25 where the water comes from?

1 A. No.

2 Q. Did you know that the Monica house had
3 a water softener?

4 A. Yes.

5 Q. Did you install that system?

6 A. No, I did not.

7 Q. But you understood when you -- when
8 the installation was being done that there was
9 going to be a water softening system?

10 A. No.

11 Q. When did you learn that the Monica
12 house was going to have a water softening system?

13 A. Sometime during the job.

14 Q. So at the time you did the proposal in
15 which you suggested PEX products, you were not
16 aware that they were going to have a water
17 softening system?

18 A. No, I don't believe it was on the
19 plans, so...

20 Q. In your experience, do a lot of people
21 in this area have water softening systems?

22 A. Mostly the people who have well water
23 have them; but that's city water there.

24 Q. So what about people with city water,
25 do they typically have water softening systems?

1 A. Very few. They might have put a
2 filtration system on it, but not a water
3 softener.

4 MS. STEPHENS: I'm going to take a
5 quick break.

6 (Recess.)

7
8 BY MS. STEPHENS:

9 Q. We're back on the record.
10 Mr. Roman, you understand you're still
11 under oath?

12 A. Yes, I do.

13 Q. Now, again, today you've produced some
14 documents to us that were brought by your
15 attorney.

16 And we've already looked at the
17 proposal. I'm going to introduce these as
18 exhibits one by one.

19 (Fax, Monica to Baurkot, 8/19/13,
20 w/attached Terrier Claims Services First
21 and Final Report is received and marked as
22 Exhibit Roman-3 for Identification.)

23 Q. I've marked -- this has been marked
24 Roman-3, and I believe just in general this is
25 like a claim report from Terrier Claims Services.

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1 Do you see that on the second page?

2 A. Um-hum.

3 Q. "Yes"?

4 A. Yes.

5 Q. Okay. Is Terrier Claims Services
6 somehow related to your insurance company?

7 A. I believe so.

8 Q. And perhaps they were the ones who did
9 the investigation of the claim that you submitted
10 after you were sued by Mr. Monica.

11 Do you recall that at all?

12 A. I don't know. I guess they were.

13 Q. Do you see at the top of there,
14 there's some --

15 A. Right.

16 Q. -- information at the very top of the
17 box?

18 A. Yeah.

19 Q. It says like "insured" and --

20 A. Yeah, um-hum, it says "Roman Plumbing
21 & Heating."

22 Q. So does this seem maybe somehow
23 related to the --

24 A. Yes.

25 (Court Reporter clarification.)

1 Q. So at the top do you see a notation
2 that says "insured" and I believe it lists "Roman
3 Plumbing," so this may help indicate that this
4 was related to an insurance claim that you made?

5 A. Yes.

6 Q. And does it list James Monica on there
7 as the claimant?

8 A. Yes, it does.

9 Q. And just for -- again, we only have
10 one copy, so just for purposes of asking you some
11 questions I've added a couple of blue tabs.

12 You can flip that page.

13 Could you read that little narrative
14 just to yourself, and I'm going to ask you a
15 couple of questions.

16 (Witness reviewing exhibit.)

17 A. Okay.

18 Q. That narrative that you've just read,
19 I believe they're like kind of two leaks that it
20 refers to, one in January 2013 and one in June of
21 2013. Do you see that, those two?

22 A. I thought there was only one leak.

23 Q. There's several paragraphs there.

24 (Witness reviewing exhibit.)

25 A. Okay, yeah, all right, I got it.

1 Q. Let's talk about that first one.

2 Again, the document says what it says,
3 but I believe it refers to a week in January 2013
4 when they returned from vacation and found some
5 water in their basement. Does that --

6 A. Yes.

7 Q. -- generally reflect what that
8 documents says?

9 A. Yes.

10 Q. And as part of that narrative, I
11 believe it suggests that Mr. Monica was told that
12 perhaps the leak was caused by some clamp rings
13 being installed too close to the end of the
14 tubing.

15 Do you see those allegations?

16 A. Yes.

17 Q. Does this exhibit refresh your
18 recollection about whether in the lawsuit
19 Mr. Monica was claiming that some of the issues
20 were due to the installation being improperly
21 done?

22 A. I guess so.

23 Q. And there's -- then that second leak
24 that's referred to, I believe it's June of 2013
25 related to the mud room. Do you see that?

1 A. Yes.

2 Q. Okay. And that's the one where you
3 think maybe you guys were actually called in to
4 look at that?

5 A. No.

6 Q. No? That was a different one?

7 A. Yeah, 'cause it says "Water came
8 through the ceiling."

9 Q. So maybe that was a family room, a
10 different location?

11 A. Right.

12 Q. And, at least according to this
13 document, there's some suggestion that they were
14 saying that the cause might have been some
15 installation issues; again, just according to
16 this document?

17 A. Yes.

18 Q. And I believe there's a second page
19 that's tabbed.

20 A. Um-hum.

21 (Witness reviewing exhibit.)

22 Q. Hand it back to me. I forgot what I
23 was going to ask you.

24 (Handing.)

25 Q. You also installed a water filtration

1 system at this house?

2 A. I don't know.

3 Q. The second thing that I tabbed
4 suggests that they allege that you improperly
5 installed a water softener and a water filtration
6 system?

7 A. I never installed a water softener.

8 Q. So you understand there's a water
9 softener, but you didn't install it?

10 A. I might have corrected the drain that
11 was from the water softener or said it was
12 improperly installed per code.

13 Q. My understanding from this morning is
14 that you did not install the water softener.

15 A. I did not.

16 Q. So I'm just trying to understand how
17 this all fits together.

18 A. What I -- what I told him was --
19 because that company, Automatic Water Softener,
20 does it all the time.

21 They'll take a clean-out where you're
22 supposed to clean out the sewer line, and that
23 water softener backwashes. It has to be
24 backwashed. It backwashes -- I don't know what
25 time frame it does, and it has to be disposed of

1 somewhere, so what they do is they put it into a
2 clean-out, which is not proper code.

3 So I told Mr. Monica that we would not
4 pass inspection with that installed like that,
5 that we had to put it properly into a trap where
6 it went out to the sewer system.

7 Q. Okay. Is that similar to like how a
8 washing machine has like a backwash and it has to
9 be disposed of?

10 A. I don't know how it works. I just
11 know it drains itself. It has to clean itself,
12 but I don't know the procedures of it.

13 Q. Okay. And you don't believe you
14 installed a water filter system either?

15 A. Where is it, at the kitchen sink, at
16 the --

17 Q. I don't know.

18 A. I don't remember.

19 Q. Okay, fair enough.

20 (Letter, 8/21/13, w/attached Case
21 Information Statement and First amended
22 Complaint, re: Monica v Roman Plumbing
23 & Heating is received and marked as Exhibit
24 Roman-4 for Identification.)

25 Q. I'm going to hand you what I've marked

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1 Roman-4.

2 If you can just -- and I'm going to
3 tell you what I believe this is.

4 There's some cover pages of Mr. Monica
5 sending this to the Superior Court.

6 And then in this packet it includes a
7 pleading called the First Amended Complaint.

8 Do you see that title?

9 A. Yes.

10 Q. And you see the caption is still his
11 lawsuit against you, James Monica?

12 A. Yes.

13 Q. And if you go to the page that I
14 tabbed, and specifically, Paragraph 13 of the
15 First Amended Complaint --

16 MR. BAURKOT: This page (indicating).

17 A. Oh, okay.

18 Q. Now, there's like some allegations and
19 some kind of bullet points.

20 Do you see that paragraph?

21 A. Right.

22 Q. Can you read to me the last two bullet
23 points?

24 A. "Improper construction or installation
25 of PEX..." they got "plumbing" spelled wrong, but

1 "...plumbing line fittings."

2 Q. And what's next?

3 A. Oh, it says it twice, it says it
4 twice. Oh, "lines and line fittings."

5 Q. Okay. In this First Amended Complaint
6 it appears that there are some allegations that
7 you improperly installed PEX fittings and lines.

8 Is that correct?

9 A. Yes.

10 Q. And, again, those are just allegations
11 that Mr. Monica was making?

12 A. Right.

13 Q. Does this Amended Complaint refresh
14 your recollection about whether the PEX
15 installation was something that Mr. Monica was
16 complaining about as part of that lawsuit?

17 A. I don't know. He complained about a
18 lot of things.

19 Q. But at least it appears that --

20 A. Yeah, it was one of them.

21 (Civil Action Summons is received and
22 marked as Exhibit Roman-5 for
23 Identification.)

24 (Roman Plumbing & Heating Dwelling
25 Estimate is received and marked as Exhibit

1 Roman-6 for Identification.)

2 Q. I'm going to hand you what I've marked
3 Roman-5. This is, again, a package of
4 information. I believe it's just mostly the
5 complaint, and so I'm just stating that for the
6 record. I'm not going to ask any questions at
7 this time.

8 Then I'm going to hand you what's been
9 marked Roman-6 entitled "Dwelling Estimate."

10 It appears to come from Terrier Claims
11 Services. Again, I'm not going to ask you any
12 questions at this time on that.

13 (Fax, 12/4/13, Monica to Purcell
14 w/attached Release, 12/4/13, is received and
15 marked as Exhibit Roman-7 for
16 Identification.)

17 Q. I'm going to hand you what's been
18 marked Roman-7, and I would like you to flip to
19 the second page, please.

20 (Witness reviewing exhibit.)

21 A. Okay.

22 Q. Do you recognize Roman -- that part of
23 Roman-7?

24 A. Yeah.

25 Q. Okay. And what is that document?

1 A. It's a release, right?

2 Q. And is that the release that was
3 related to Mr. Monica's lawsuit against you?

4 A. I believe so.

5 (Copies of Photographs of Various
6 Joints, Pipe, Tubing is received and marked
7 as Exhibit Roman-8 for Identification.)

8 Q. I'm going to hand you what's been
9 marked Roman-8.

10 (Witness reviewing exhibit.)

11 Q. And, again, at the top of this, the
12 first page, there's a box and some information.

13 Do you see Roman Plumbing listed as
14 the insured?

15 A. Yes.

16 Q. And it appears this document came from
17 Terrier Claims Services?

18 A. Yes.

19 Q. And this has some pictures of some
20 clamps and fittings. Do you see that?

21 A. Yes.

22 Q. And it's black and white and so I
23 understand it's kind of hard to see.

24 But as you go through the pictures can
25 you identify at least what type of item is

1 pictured? So, on the first page --

2 A. That's the cinch ring that we would
3 have used. That's a piece of pipe and a fitting.

4 Q. Hold on. Let's go through these real
5 methodical.

6 A. Okay.

7 MR. BAURKOT: She doesn't know what
8 you're referring to, you have to be specific.

9 THE WITNESS: Oh, okay.

10 Q. And it's mostly for the record.

11 MR. BAURKOT: It's just so that she
12 can take it down, Rick, so we're going
13 to identify, you know, whatever picture is
14 on this page, however you want to do it.

15 A. So the top picture on Page 2 is two
16 cinch rings.

17 Q. Okay. And what's the second picture
18 on Page 2?

19 A. The bottom picture on Page 2 looks
20 like a fitting into two pieces of pipe.

21 Q. Looks like an elbow?

22 A. Yes.

23 Q. What about the pictures on the next
24 page?

25 A. The top picture is pipe going into the

1 joists going up from the basement.

2 Q. And the next picture?

3 A. That would be the same.

4 Q. Okay. What about the next page on
5 Page 4?

6 A. That would be the water softener.

7 MR. BAURKOT: The top picture.

8 A. The top picture is the water softener
9 with the drain lines with the main water coming
10 in, the main sewer, and I believe there's a sump
11 pump there.

12 Q. Okay. And the bottom picture is?

13 A. The bottom picture is where the
14 discharge from the water softener, the white
15 pipe, would have went into that we installed.

16 Q. And that's what you were describing
17 earlier, is that you had to have -- you had to
18 install some sort of discharge for the water
19 softener so that it would be up to code?

20 A. Yes.

21 Q. And are there pictures on the next
22 page?

23 A. Yes.

24 Q. The top picture is --

25 A. Is the water softener again.

1 Q. And the bottom picture?

2 A. The bottom picture shows the waste
3 line and the PEX water line.

4 Q. And what about -- are there any other
5 pages?

6 A. The top picture on Page 18 would be
7 PEX water lines again. And I don't know, the
8 bottom picture looks like a baby crib.

9 Q. Thank you. I'm going to hand you what
10 I'm marking Roman-9.

11 (Copies of Checks Payable to Roman
12 Plumbing are received and marked as Exhibit
13 Roman-9 for Identification.)

14 Q. I believe it's a series of checks or
15 copies of checks that Mr. Monica wrote to Roman
16 Plumbing. Please take a look.

17 A. Um-hum.

18 (Witness reviewing exhibit.)

19 A. That's correct.

20 Q. And that -- if we added those up, do
21 you think that's the total amount of money he
22 ever paid you?

23 A. I don't know.

24 Q. We'll do that math in a second.

25 Do you agree with the allegations that

1 Mr. Monica made that some of the PEX plumbing
2 system was installed incorrectly?

3 A. I never saw the fitting that broke
4 apart, so I couldn't say. I wasn't allowed to
5 look at that.

6 Q. Do you know where that fitting ended
7 up?

8 A. No.

9 Q. And I guess by "the fitting" you mean
10 like the whole connection system?

11 A. The ring and the fitting and the pipe
12 itself, you know.

13 Q. You never got to see it yourself?

14 A. No.

15 Q. When you're installing or when you
16 have installed in the past NIBCO PEX tubing to a
17 brass fitting, you normally use those same cinch
18 rings, correct?

19 A. Right.

20 Q. Typically, how far do you --

21 A. I believe it's -- oh, sorry.

22 Q. Typically how far, like, off from the
23 end of the tube do you normally put a ring?

24 A. I think it's an eighth to a quarter of
25 an inch.

1 Q. And how do you know that?

2 A. What?

3 Q. How do you know to do that?

4 A. I think I read that once somewhere.

5 Q. Can you also kind of feel it when it
6 catches when you do the cinching?

7 A. No. The tool that we use has a light
8 on it so it knows that it's done.

9 Q. Is that an -- and you know more about
10 this than I do -- is that a NIBCO tool that you
11 use or is that a different brand of tool?

12 A. I don't know. I have it in my truck
13 if you want me to go get it.

14 Q. Are you aware whether Mr. Monica ever
15 complained that any of the tubing itself was the
16 problem, or was it all just at the connections?

17 A. I don't know about what he complained.
18 You know, I don't know. I wasn't aware of those
19 two leaks until the lawsuit.

20 Q. The recirculation tank -- sorry -- the
21 recirculation pump that was installed at the
22 Monica house, does it have different settings for
23 like how often the water recirculates?

24 A. No.

25 Q. Does it constantly recirculate?

1 A. I don't know his system. Sometimes we
2 put where it just keeps constantly going or
3 sometimes we'll put an Aquastat on the pipe so to
4 tell the temperature -- the temperature of the
5 pipe, and when it reaches like 100 the pump will
6 shut off, and then when it reaches 70 it will
7 kick back on, but I don't know if we installed
8 that at his house. There's two different ways
9 that I do it.

10 Q. I assume you're familiar with an
11 expansion tank?

12 A. Yes.

13 Q. Did you install an expansion tank at
14 the Monica house?

15 A. I believe we would have had to.

16 Q. And why is that?

17 A. Because of the pressure reducing
18 valve. So when the hot water heats, it needs
19 somewhere to go. With a pressure reducing valve
20 on, it has a check valve in it so it can't go
21 back into the main water line, per se, so it
22 needs an expansion tank or the relief valve will
23 blow off.

24 Q. Have you talked to Mr. Monica after
25 the lawsuit was settled?

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1 A. No.

2 Q. Have you ever had anyone complain --
3 we discussed those Kitec --

4 A. Right.

5 Q. -- the home owners who had Kitec in
6 their house and they had some leaks, correct?

7 A. Correct.

8 Q. Have you ever had any other home where
9 you installed NIBCO PEX products have leaks?

10 A. I don't know how to answer that
11 because we did have a couple leaks on PEX, but I
12 don't know what the material was.

13 Q. Was that recently? You know, when did
14 that --

15 A. We just had one job that a fitting
16 blew out.

17 Q. So you had some other leaks in the
18 homes where you've done installations, but you're
19 just not sure of what brand of materials was used
20 in those homes?

21 A. I couldn't be certain.

22 Q. But to this day you continue to use
23 NIBCO sometimes?

24 A. If Atlantic sells it to me, I buy it.
25 Yeah, they do have NIBCO, so I do use NIBCO.

1 Q. Increasingly, do you use the poly
2 fittings as opposed to brass?

3 A. Yes.

4 Q. And is that mostly a function of cost
5 and ease of use, or what's the main reason?

6 A. Cost and -- I guess just cost.

7 Q. I'm going to hand you what was marked
8 during Mr. Monica's deposition as Exhibit 2.

9 And I'm going to represent to you that
10 this was the complaint that he has filed, among
11 others, against NIBCO.

12 And I'm specifically going to refer
13 you to a couple pages with some pictures.

14 (Witness reviewing exhibit.)

15 A. Okay.

16 Q. And then there's also one picture on
17 the next page.

18 (Witness reviewing exhibit.)

19 A. Okay.

20 Q. Now, if you flip back to the original
21 page, sir, I'm going to represent to you that
22 Mr. Monica said these were taken -- pictures
23 taken in his home of fittings that were in his
24 home.

25 Do any of these look familiar to you,

1 these pictures, or the fittings in them?

2 A. The fittings look familiar, but I
3 don't know if they were used in his home.

4 Q. Have you ever seen this kind of
5 substance forming on the outside of fittings?

6 A. Yes.

7 Q. And in what context have you seen
8 that?

9 A. In either PEX or copper fittings. If
10 you get a little leak that crustation forms
11 around the fitting.

12 Q. If there's some water that's leaking
13 out of the tube onto the fitting, it can cause
14 this?

15 A. That's what I believe.

16 Q. Okay, that's what you believe, okay.
17 Has that sort of substance ever been
18 -- do you believe that causes leaks or is it just
19 a symptom of a leak?

20 A. Honestly, I don't know.

21 Q. Okay. Have you ever had a customer
22 call you out to replace a fitting that looks like
23 that or something like it?

24 A. Yeah, or if we're in the person's home
25 or business and I see that, I might suggest that

1 he should change that before it bursts; mainly on
2 copper fittings, though.

3 MS. STEPHENS: Now, Dan, I'd like to
4 take another quick break and see if I have
5 any more questions to sort of wrap up.

6 MR. BAURKOT: Okay, no problem.

7 (Recess.)

8

9 BY MS. STEPHENS:

10 Q. We're back on the record.

11 Mr. Roman, you understand you're still
12 under oath?

13 A. Yes.

14 MS. STEPHENS: I do not have any more
15 questions for you today.

16 THE WITNESS: Okay.

17

18 CROSS-EXAMINATION BY MR. KENNEY:

19 Q. I know we met off the record earlier,
20 but my name is Joe Kenney and I'm representing
21 the Plaintiff, James Monica, in a class action
22 lawsuit against NIBCO.

23 Do you understand that?

24 A. Yes, I do.

25 Q. And do you understand that in that

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1 lawsuit Plaintiff Monica is alleging that the
2 NIBCO PEX tubing, fittings, and clamps that were
3 installed in his home are failing due to defects
4 in NIBCO's design or manufacture of those
5 products?

6 A. Yes.

7 Q. And I think earlier you testified that
8 someone came out to do various inspections of
9 plumbing work at the Monicas' home.

10 Is that correct?

11 A. Yes, that would be the town inspector.

12 Q. And what was the final result of all
13 those inspections?

14 A. It passed.

15 MR. KENNEY: I have no other
16 questions.

17 MS. STEPHENS: We're good.

18 (Deposition concluded 2:35 p.m.)

19 (Exhibits retained for copy.)
20
21
22
23
24
25

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C E R T I F I C A T E

I CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken by and before me stenographically at the time and place aforementioned.

I FURTHER CERTIFY that I am neither attorney for nor counsel to any of the parties; parties of any of the attorneys in this action; and that I am not financially interested in the outcome of this case.

Dated: November 30, 2016

Susan Gioffre

SUSAN GIOFFRE, CCR
License No. XI001220
Notary Public of the State of New Jersey

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1 Job No. 539335

2 -----

3 DEPOSITION OF RICHARD ROMAN, 11/29/2016

4 -----

5 CASE NAME: KIMBERLEY COLE, et al. vs. NIBCO, INC.

6 -----

7 I, Richard Roman, being first duly
8 sworn, on oath, say that I am the witness in the
9 aforesaid statement, that I have read the
10 foregoing transcript of my deposition taken at
11 the aforesaid time and place and that the
12 foregoing is a true and correct transcript of my
13 testimony so given.

14

15 _____ Corrections have been submitted

16 _____ No corrections have been submitted

17

18

19

RICHARD ROMAN

20

21 SUBSCRIBED AND SWORN TO

22 before me this _____ day

23 of _____ A.D., 201_.

24

25 Notary Public

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ERRATA SHEET

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3	PAGE	LINE	
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24	_____	Date:	_____
25	RICHARD ROMAN		

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